



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

October 14, 2003

Ms. Lillian Guillen Graham
Assistant City Attorney
Office of the City Attorney
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2003-7305

Dear Ms. Graham:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 189301.

The Mesquite Police Department (the "department") received a request for (1) a specified call sheet and (2) all reports involving a named individual at a specified address during a certain time period. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You assert that Attachment No. 2 is excepted from disclosure under section 261.201 of the Family Code. Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) This exception encompasses information that other statutes make confidential. Section 261.201 reads in part as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

We believe that Attachment No. 2 consists of reports, records, and working papers used or developed in an investigation made under chapter 261 of the Family Code. Because you have not cited any specific rule that the investigating agency has adopted with regard to the release of this type of information, we assume that no such regulation exists. Given that assumption, Attachment No. 2 is confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute). Accordingly, you must not release Attachment No. 2 to the requestor.¹

You assert that the marked address and telephone number included in Attachment No. 3 are excepted from disclosure under section 552.101 in conjunction with section 772.118 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Section 772.118 of the Health and Safety Code applies only to an emergency 911 district established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). This section makes the originating telephone numbers and addresses of 911 callers that are furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. You indicate that the department is part of an emergency communication district established under section 772.118 of the Health and Safety Code. Therefore, the department must withhold the originating telephone number and address of a 911 caller furnished by a service supplier under section 552.101 of the Government Code.

You assert that the marked motor vehicle information included in Attachment No. 3 is excepted from disclosure under section 552.130. Section 552.130 of the Government Code prohibits the release of information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state, a personal identification document issued by an agency of this state, or a motor vehicle title or registration issued by an agency of

¹We note that if the investigation has been referred to the Department of Protective and Regulatory Services (the "department"), a parent who is a requestor may be entitled to access to the department's records. Section 261.201(g) of the Family Code provides that the department, upon request and subject to its own rules:

shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if the department has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure.

this state. *See* Gov't Code § 552.130. However, if the information at issue is the requestor's own driver's license number, she has a special right of access to this information under section 552.023. Gov't Code § 552.023 (person or person's authorized representative has special right of access to information held by governmental body that relates to the person and that is protected from public disclosure by laws intended to protect the person's privacy interests). If the marked motor vehicle information does not relate to the requestor, it must be withheld under section 552.130. However, if the information at issue does relate to the requestor, then it must be released to her under section 552.023.

In summary, the department must withhold Attachment No. 2 in its entirety and the marked telephone number and address in Attachment No. 3 under section 552.101. If the marked motor vehicle information in Attachment No. 3 does not relate to the requestor, it must be withheld under section 552.130. However, if the information at issue does relate to the requestor, then it must be released to her under section 552.023. The department must release the remaining information to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Peterson", with a stylized flourish at the end.

Amy D. Peterson
Assistant Attorney General
Open Records Division

ADP/sdk

Ref: ID# 189301

Enc. Submitted documents

c: Ms. Carron Goldsmith
420 W. Larson, Lot 60
Dallas, Texas 75253
(w/o enclosures)